

118TH CONGRESS
1ST SESSION

S. 659

AN ACT

To amend chapter 38 of title 31, United States Code,
relating to civil remedies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Administrative False
3 Claims Act of 2023”.

4 **SEC. 2. ADMINISTRATIVE FALSE CLAIMS.**

5 (a) CHANGE IN SHORT TITLE.—

6 (1) IN GENERAL.—Subtitle B of title VI of the
7 Omnibus Budget Reconciliation Act of 1986 (Public
8 Law 99–509; 100 Stat. 1934) is amended—

9 (A) in the subtitle heading, by striking
10 **“Program Fraud Civil Remedies”** and
11 inserting **“Administrative False**
12 **Claims”**; and

13 (B) in section 6101 (31 U.S.C. 3801 note),
14 by striking “Program Fraud Civil Remedies Act
15 of 1986” and inserting “Administrative False
16 Claims Act”.

17 (2) REFERENCES.—Any reference to the Pro-
18 gram Fraud Civil Remedies Act of 1986 in any pro-
19 vision of law, regulation, map, document, record, or
20 other paper of the United States shall be deemed a
21 reference to the Administrative False Claims Act.

22 (b) REVERSE FALSE CLAIMS.—Chapter 38 of title
23 31, United States Code, is amended—

24 (1) in section 3801(a)(3), by amending sub-
25 paragraph (C) to read as follows:

1 “(C) made to an authority which has the
2 effect of concealing or improperly avoiding or
3 decreasing an obligation to pay or transmit
4 property, services, or money to the authority,”;
5 and

6 (2) in section 3802(a)(3)—

7 (A) by striking “An assessment” and in-
8 serting “(A) Except as provided in subpara-
9 graph (B), an assessment”; and

10 (B) by adding at the end the following:

11 “(B) In the case of a claim described in section
12 3801(a)(3)(C), an assessment shall not be made
13 under the second sentence of paragraph (1) in an
14 amount that is more than double the value of the
15 property, services, or money that was wrongfully
16 withheld from the authority.”.

17 (c) INCREASING DOLLAR AMOUNT OF CLAIMS.—Sec-
18 tion 3803(c) of title 31, United States Code, is amended—

19 (1) in paragraph (1), by striking “\$150,000”
20 each place that term appears and inserting
21 “\$1,000,000”; and

22 (2) by adding at the end the following:

23 “(3) ADJUSTMENT FOR INFLATION.—The maximum
24 amount in paragraph (1) shall be adjusted for inflation
25 in the same manner and to the same extent as civil mone-

1 tary penalties under the Federal Civil Penalties Inflation
2 Adjustment Act (28 U.S.C. 2461 note).”.

3 (d) RECOVERY OF COSTS.—Section 3806(g)(1) of
4 title 31, United States Code, is amended to read as fol-
5 lows:

6 “(1)(A) Except as provided in paragraph (2)—

7 “(i) any amount collected under this chapter
8 shall be credited first to reimburse the authority or
9 other Federal entity that expended costs in support
10 of the investigation or prosecution of the action, in-
11 cluding any court or hearing costs; and

12 “(ii) amounts reimbursed under clause (i)
13 shall—

14 “(I) be deposited in—

15 “(aa) the appropriations account of
16 the authority or other Federal entity from
17 which the costs described in subparagraph
18 (A) were obligated;

19 “(bb) a similar appropriations account
20 of the authority or other Federal entity; or

21 “(cc) if the authority or other Federal
22 entity expended nonappropriated funds,
23 another appropriate account; and

24 “(II) remain available until expended.

1 “(B) Any amount remaining after reimbursements
2 described in subparagraph (A) shall be deposited as mis-
3 cellaneous receipts in the Treasury of the United States.”.

4 (e) SEMIANNUAL REPORTING.—Section 405(e) of
5 title 5, United States Code, is amended—

6 (1) in paragraph (4), by striking “and” at the
7 end;

8 (2) by redesignating paragraph (5) as para-
9 graph (6); and

10 (3) by inserting after paragraph (4) the fol-
11 lowing:

12 “(5) information relating to cases under chap-
13 ter 38 of title 31, including—

14 “(A) the number of reports submitted by
15 investigating officials to reviewing officials
16 under section 3803(a)(1) of such title;

17 “(B) actions taken in response to reports
18 described in subparagraph (A), which shall in-
19 clude statistical tables showing—

20 “(i) pending cases;

21 “(ii) resolved cases;

22 “(iii) the average length of time to re-
23 solve each case;

1 “(iv) the number of final agency deci-
2 sions that were appealed to a district court
3 of the United States or a higher court; and

4 “(v) if the total number of cases in a
5 report is greater than 2—

6 “(I) the number of cases that
7 were settled; and

8 “(II) the total penalty or assess-
9 ment amount recovered in each case,
10 including through a settlement or
11 compromise; and

12 “(C) instances in which the reviewing offi-
13 cial declined to proceed on a case reported by
14 an investigating official; and”.

15 (f) INCREASING EFFICIENCY OF DOJ PROC-
16 ESSING.—Section 3803(j) of title 31, United States Code,
17 is amended—

18 (1) by inserting “(1)” before “The reviewing”;
19 and

20 (2) by adding at the end the following:

21 “(2) A reviewing official shall notify the Attorney
22 General in writing not later than 30 days before entering
23 into any agreement to compromise or settle allegations of
24 liability under section 3802 and before the date on which

1 the reviewing official is permitted to refer allegations of
 2 liability to a presiding officer under subsection (b).”.

3 (g) REVISION OF DEFINITION OF HEARING OFFI-
 4 CIALS.—

5 (1) IN GENERAL.—Chapter 38 of title 31,
 6 United States Code, is amended—

7 (A) in section 3801(a)(7)—

8 (i) in subparagraph (A), by striking
 9 “or” at the end;

10 (ii) in subparagraph (B)(vii), by add-
 11 ing “or” at the end; and

12 (iii) by adding at the end the fol-
 13 lowing:

14 “(C) a member of the board of contract
 15 appeals pursuant to section 7105 of title 41, if
 16 the authority does not employ an available pre-
 17 siding officer under subparagraph (A);”; and

18 (B) in section 3803(d)(2)—

19 (i) in subparagraph (A), by striking
 20 “and” at the end;

21 (ii) in subparagraph (B)—

22 (I) by striking “the presiding”
 23 and inserting “(i) in the case of a re-
 24 ferral to a presiding officer described

1 in subparagraph (A) or (B) of section
2 3801(a)(7), the presiding”;

3 (II) in clause (i), as so des-
4 ignated, by striking the period at the
5 end and inserting “; or”; and

6 (III) by adding at the end the
7 following:

8 “(ii) in the case of a referral to a presiding
9 officer described in subparagraph (C) of section
10 3801(a)(7)—

11 “(I) the reviewing official shall submit
12 a copy of the notice required by under
13 paragraph (1) and of the response of the
14 person receiving such notice requesting a
15 hearing—

16 “(aa) to the board of contract
17 appeals that has jurisdiction over
18 matters arising from the agency of the
19 reviewing official pursuant to section
20 7105(e)(1) of title 41; or

21 “(bb) if the Chair of the board of
22 contract appeals declines to accept the
23 referral, to any other board of con-
24 tract appeals; and

1 “(II) the reviewing official shall simul-
 2 taneously mail, by registered or certified
 3 mail, or shall deliver, notice to the person
 4 alleged to be liable under section 3802 that
 5 the referral has been made to an agency
 6 board of contract appeals with an expla-
 7 nation as to where the person may obtain
 8 the relevant rules of procedure promul-
 9 gated by the board; and”;

10 (iii) by adding at the end the fol-
 11 lowing:

12 “(C) in the case of a hearing conducted by a
 13 presiding officer described in subparagraph (C) of
 14 section 3801(a)(7)—

15 “(i) the presiding officer shall conduct the
 16 hearing according to the rules and procedures
 17 promulgated by the board of contract appeals;
 18 and

19 “(ii) the hearing shall not be subject to the
 20 provisions in subsection (g)(2), (h), or (i).”.

21 (2) AGENCY BOARDS.—Section 7105(e) of title
 22 41, United States Code, is amended—

23 (A) in paragraph (1), by adding at the end
 24 the following:

1 “(E) ADMINISTRATIVE FALSE CLAIMS
2 ACT.—

3 “(i) IN GENERAL.—The boards de-
4 scribed in subparagraphs (B), (C), and (D)
5 shall have jurisdiction to hear any case re-
6 ferred to a board of contract appeals under
7 section 3803(d) of title 31.

8 “(ii) DECLINING REFERRAL.—If the
9 Chair of a board described in subpara-
10 graph (B), (C), or (D) determines that ac-
11 cepting a case under clause (i) would pre-
12 vent adequate consideration of other cases
13 being handled by the board, the Chair may
14 decline to accept the referral.”; and

15 (B) in paragraph (2), by inserting “or, in
16 the event that a case is filed under chapter 38
17 of title 31, any relief that would be available to
18 a litigant under that chapter” before the period
19 at the end.

20 (3) REGULATIONS.—Not later than 180 days
21 after the date of enactment of this Act, each author-
22 ity head, as defined in section 3801 of title 31,
23 United States Code, and each board of contract ap-
24 peals of a board described in subparagraph (B), (C),
25 or (D) of section 7105(e) of title 41, United States

1 Code, shall amend procedures regarding proceedings
2 as necessary to implement the amendments made by
3 this subsection.

4 (h) REVISION OF LIMITATIONS.—Section 3808 of
5 title 31, United States Code, is amended by striking sub-
6 section (a) and inserting the following:

7 “(a) A notice to the person alleged to be liable with
8 respect to a claim or statement shall be mailed or delivered
9 in accordance with section 3803(d)(1) not later than the
10 later of—

11 “(1) 6 years after the date on which the viola-
12 tion of section 3802 is committed; or

13 “(2) 3 years after the date on which facts mate-
14 rial to the action are known or reasonably should
15 have been known by the authority head, but in no
16 event more than 10 years after the date on which
17 the violation is committed.”.

18 (i) DEFINITIONS.—Section 3801 of title 31, United
19 States Code, is amended—

20 (1) in subsection (a)—

21 (A) in paragraph (8), by striking “and” at
22 the end;

23 (B) in paragraph (9), by striking the pe-
24 riod at the end and inserting a semicolon; and

25 (C) by adding at the end the following:

1 “(10) ‘material’ has the meaning given the term
2 in section 3729(b) of this title; and

3 “(11) ‘obligation’ has the meaning given the
4 term in section 3729(b) of this title.”; and

5 (2) by adding at the end the following:

6 “(d) For purposes of subsection (a)(10), materiality
7 shall be determined in the same manner as under section
8 3729 of this title.”.

9 (j) PROMULGATION OF REGULATIONS.—Not later
10 than 180 days after the date of enactment of this Act,
11 each authority head, as defined in section 3801 of title
12 31, United States Code, shall—

13 (1) promulgate regulations and procedures to
14 carry out this Act and the amendments made by this
15 Act; and

16 (2) review and update existing regulations and
17 procedures of the authority to ensure compliance
18 with this Act and the amendments made by this Act.

Passed the Senate March 30, 2023.

Attest:

Secretary.

118TH CONGRESS
1ST SESSION

S. 659

AN ACT

To amend chapter 38 of title 31, United States Code, relating to civil remedies, and for other purposes.